

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 1 - 15 are pending in the case. Currently, claims 1 - 5, 7, 8, 10, 11, and 13 - 15 stand rejected; claims 6 and 9 stand objected to; and claim 12 stands allowed.

By the present amendment, claim 1 has been cancelled without prejudice and claims 6 and 9 has been placed into independent form and thus are now allowable. Further, claims 2 - 5, 7, and 8 have been amended to change their dependency to claim 6. Consequently, these claims are allowable as well.

In the office action mailed September 8, 2004, claim 1 was rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,681,142; claims 1 - 3, 5, and 7 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,721,434 to Marshall et al; claims 4, 7, and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over the Marshall et al. patent; claims 10, 11, 13, and 14 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,986,779 to Beckershoff; and claim 15 was rejected under 35 U.S.C. 103(a) over Beckershoff.

The foregoing rejections are traversed by the present response.

The present invention relates to an assembly for preventing rotation of a damper in a stator system. The assembly comprises a slot in said damper and a block for engaging said slot and thereby preventing said rotation of said damper.

In said office action, the Examiner objected to the drawings. By the present amendment, replacement sheets obviating the objection made by the Examiner are presented. The drawings

have been amended to designate the brazing material of claim 12 by a reference number and to show the plane 3 - 3.

The rejections based on the Lewis and Marshall references have been mooted by the cancellation of claim 1, the placement of claims 6 and 9 into independent form, and the dependency changes of claims 2 - 5, 7, 8.

With regard to the rejection of claims 10, 11, 13, and 14 over Beckershoff, a review of this patent shows that it has nothing to do with the claimed invention. The Beckershoff patent is directed to a locking device for releasable fastening parts to **rotors** of fluid flow machines (see the Abstract; also see Brief Description of FIG. 1 which clearly says that FIG. 1 is a perspective view of a rotor disk). Referring now to FIGS. 1 - 3 of Beckershoff, there is illustrated a rotor (3) having a plurality of fixing slots (2) into which an interconnect piece (1) is to be placed. The interconnect piece (1) has a foot (5) with a groove (10) and a fastening element (7) for securing an interconnect piece in a slot (2). The fastening element (7) includes a key (7'') which fits into the groove (10) which forms a keyway and a spring (7') for holding the key (7'') in place. There is absolutely nothing in the Beckershoff patent which relates to an assembly for preventing rotation of a damper in a stator system.

Claim 10 is allowable because Beckershoff has no relationship to a stator system for an engine and lacks the claimed stator, inner air seal, damper and block.

Claim 11 is allowable because Beckershoff lacks the claimed groove machined in the inner air seal and the block positioned within the groove.

Claim 13 is allowable because Beckershoff does not teach or suggest a block having the claimed structure. The so-called

chamfered edges in Beckershoff do not facilitate placement of the block within the groove.

Claim 14 is allowable because Beckershoff has no spring damper.

The Examiner's comments on pages 7 - 11 are duly noted; however, the Examiner is not reading the reference for what it says. The Examiner contends that component (1) in Beckershoff is a stator. This contention is not supported by the Examiner's own arguments. As noted by the Examiner, a stator is "a stationary machine part". Component (1) is not a stationary part. As clearly pointed out in column 1, lines 21 - 25 of the Beckershoff patent, "the term 'part or component' which is intended to be fixed to a rotor or the like, is employed in its broadest sense as embracing one or more parts which are intended to be secured to **a rotor of a machine** (emphasis added)..." Still further, Beckershoff in column 3, lines 31 -34, clearly says that FIG. 1 (which forms the attachment to the office action) "is an exploded fragmentary perspective view of a rotor disk together with an intermediate part or component which is to be connected thereto by means of the locking device of this development." It should be crystal clear from the foregoing that there is no stator in FIG. 1. It should be equally clear that component or part (1) is not a stator because it is intended to be secured to a moving part, i.e the rotor (3). While the machine shown in the Beckershoff patent may have a rotor, it is not anywhere present in Figure 1.

Nor is there any air seal disclosed in Beckershoff. What the Examiner has deemed to be the air seal is in fact the rotor. If the Examiner believes an air seal is present, then he should point to the specific place in Beckershoff which describes same (not say see the Attachment). If he can not point to anything

in Beckershoff, he should then explain how the rotor acts as an air seal. Failing that, he should drop the rejection.

Claim 10 is clearly allowable over Beckershoff because the reference does not disclose every limitation of the claimed invention. See *Atlas Powder Co. v. IRECO Inc.*, 51 USPQ2d 1943, 1945 - 46 (Fed. Cir. 1999) (To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention); also see *Lindemann Maschinefabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984).

With regard to the Examiner's contention that Applicant is using an "ipsissimis verbis" test, such contention is wrong. Applicant is using the "common sense" test. In particular, if the part moves with a rotor, it can not be a stator. As noted above, it is clear from the disclosure in Beckershoff that the part (1) is secured to rotor (3) for the sole purpose of rotating therewith. Thus, it could not possibly be stationary.

With regard to the Examiner's argument that the Beckershoff system inherently has or must have a stator, one can envision a rotor system that has no stator. This inherency argument is unsupported by the reference. It is well settled law that an element of a claim is not inherent in the disclosure of a prior art reference unless extrinsic evidence clearly shows that missing descriptive matter is necessary part in the thing described in reference and that it would be so recognized by persons of ordinary skill in the art. Inherency may not be established by mere probabilities or possibilities and mere fact that certain thing may result from a given set of circumstances is not sufficient. See *In re Robertson*, 49 USPQ2d 1949, 1950 - 51 (Fed. Cir. 1999). Further, the fact that the Examiner has to even raise this argument goes to show that component or part (1) is not a stator.

As for the Examiner's position on page 10 of not giving weight to the phrase "for prevention of rotation of a damper in a stator system", such position is in error. There is a structural difference, the block must engage the slot in the damper so as to prevent rotation of the damper during engine operation. If a block does not perform this function, it does not meet the claim limitation.

For the foregoing reasons, claims 10, 11, 13, and 14 are not anticipated by Beckershoff. The Examiner is respectfully requested to withdraw the rejection.

With regard to the rejection of claim 15 on obviousness grounds, at a minimum, this claim is allowable for the same reasons as its parent claim. This claim is also allowable for the following reason. Claim 15 is allowable because Beckershoff lacks an inner air seal. Thus, there would be no reason to locate a block at the mid span of the inner air seal.

The instant application is believed to be allowable for the foregoing reasons. Such allowance is respectfully solicited.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, the Examiner is hereby invited to contact Applicants' attorney at the telephone number listed below.

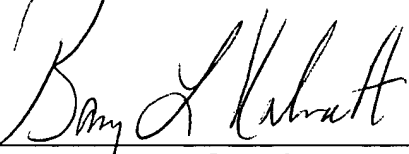
A notice of appeal is appended hereto in the event that the Examiner maintains the rejections of record.

The Commissioner is hereby authorized to charge \$428.00 to cover the notice of appeal fee and the fee for an extra independent claim to Deposit Account No. 21-0279. Should the Commissioner determine that an additional fee is due, he is

hereby authorized to charge said additional fee to said Deposit Account.

Respectfully submitted,

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Date: December 8, 2004

I, Nicole Motzer, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on **December 8, 2004**.



Amendments to the Drawings:

Attached to the instant paper are replacement sheets of drawings which include changes to Figs. 2 and 3. The sheets, which include Figs. 1-4, replace the original sheets including Figs. 1-4. Figures 2 and 3 have been amended to designate the brazing material of claim 12 by a reference number and to show the plane 3 - 3.

Also attached hereto are marked-up versions of the replacement sheets showing the changes in red.

ANNOTATED SHEET SHOWING CHANGES

Title: STATOR DAMPER ANTI-ROTATION ASSEMBLY

Inventor: Mark A. Torrance et al.

Appl. No.: 10/002,594

1/2

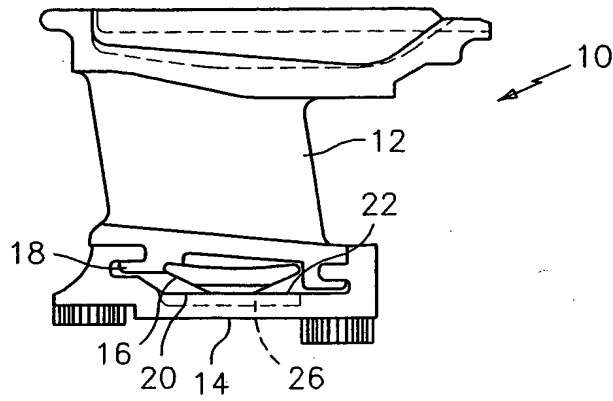


FIG. 1

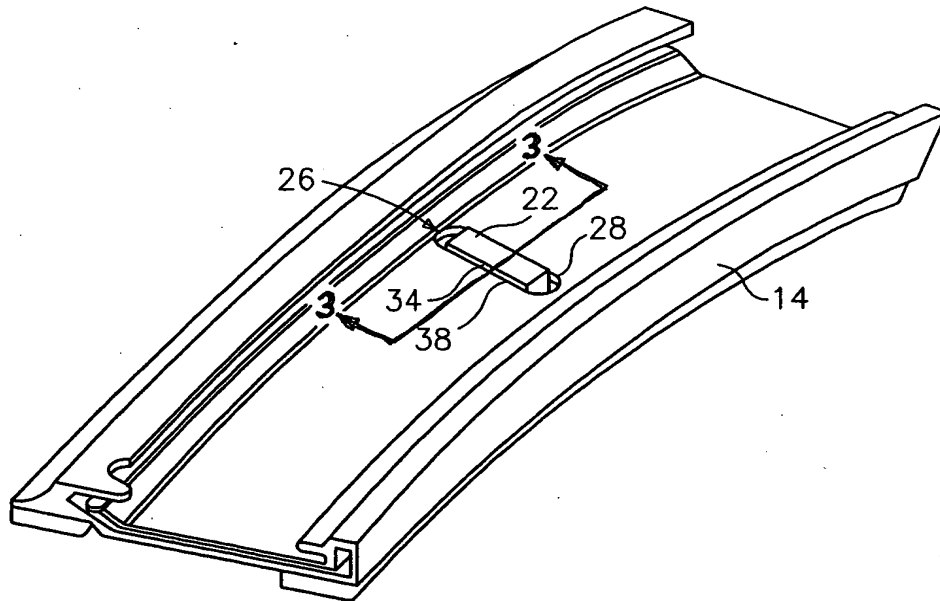


FIG. 2

ANNOTATED SHEET SHOWING CHANGES

Title: STATOR DAMPER ANTI-ROTATION ASSEMBLY

Inventor: Mark A. Torrance et al.

Appl. No.: 10/002,594

2/2

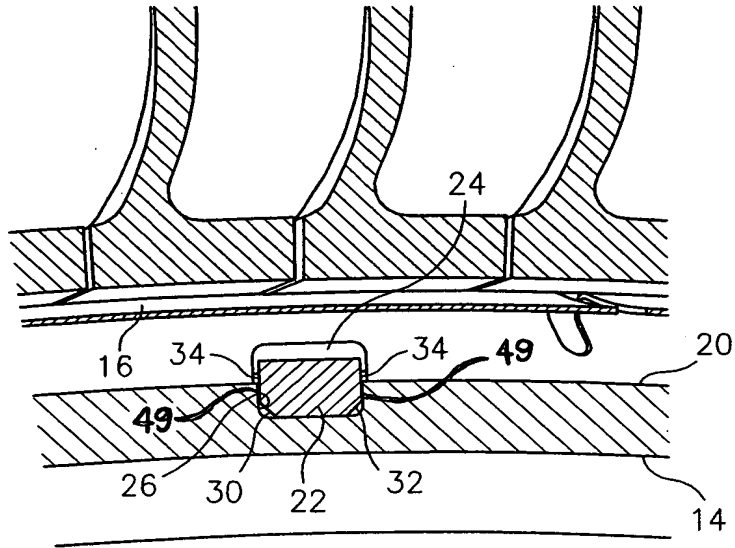


FIG. 3

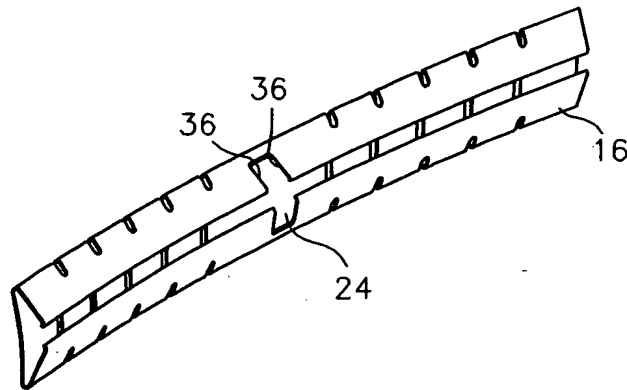


FIG. 4